

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

CELLULAR COMMUNICATIONS  
EQUIPMENT LLC,

Plaintiff,

V.

NEC CASIO MOBILE COMMUNICATIONS,  
LTD., *et al.*,

Defendants.

Case No. 6:13-cv-584-LED

## JURY TRIAL DEMANDED

**STIPULATION OF DISMISSAL WITHOUT PREJUDICE**  
**AS TO DEFENDANT VERIZON COMMUNICATIONS INC.**

Plaintiff Cellular Communications Equipment LLC (“CCE”) and Defendants Verizon Communications Inc. (“VCI”) and Cellco Partnership d/b/a Verizon Wireless<sup>1</sup> (“Verizon Wireless”) submit the following Stipulation of Dismissal Without Prejudice as to Defendant VCI and in support thereof state:

1. On June 25, 2013, August 2, 2013, and August 7, 2013, Plaintiff CCE filed suit against VCI, Verizon Wireless, and others for infringement of U.S. Patent No. 7,215,962; U.S. Patent No. 8,055,820; and U.S. Patent No. 7,218,923 (collectively the “patents-in-suit”).
2. VCI represents and warrants that:
  - a. VCI is a holding company that has no employees, sales representatives, or distributors. Furthermore, VCI does not instruct, direct, or control the

<sup>1</sup>Cellular Communications Equipment LLC's Original Complaint misidentifies Cellco Partnership d/b/a Verizon Wireless as Cellco Partnership Inc. d/b/a Verizon Wireless.

activities of its subsidiaries (or any other entity) relevant to (i) the operation or design of any cellular telephone communications network; or (ii) the operation or design of wireless device features and functionality.

- b. VCI and Verizon Wireless agree that for purposes of discovery in this case, documents and information in the possession, custody or control of VCI or any of its subsidiaries are deemed also to be in the possession, custody and control of Verizon Wireless. Verizon Wireless will not object to a request for deposition on the grounds that the prospective deponent is an employee of VCI or any of its subsidiaries (though nothing in this stipulation prevents Verizon Wireless from objecting to a deposition on other grounds).
  - c. Verizon Wireless is the proper party to defend against allegations made in this patent infringement lawsuit. Furthermore, Verizon Wireless or any assignee of Verizon Wireless is able to satisfy any judgment against it in this case. VCI and Verizon Wireless each warrant and represent that they will not take any action that will cause Verizon Wireless to be unable to fully satisfy any judgment entered in this case.
3. CCE expressly does not stipulate or agree to any of the foregoing facts and reserves its right to dispute any of the foregoing factual representations with evidence to the contrary.
  4. In reliance upon the representations and warranties made in paragraphs 2(a) – 2(c) above, CCE agrees to dismiss VCI without prejudice as allowed under Rule 41(a)(2) of the Federal Rules of Civil Procedure.

5. CCE has not released, and nothing in this Stipulation should be construed as a release or discharge of, any claim CCE has or may have in the future against any defendant named in this action or any other asserted infringer of the patents-in-suit.

All other rights have been expressly reserved.

Accordingly, CCE, VCI, and Verizon Wireless request that the Court enter the attached order dismissing VCI without prejudice.

**Dated: October 14, 2013**

Respectfully submitted,

<p><u>/s/ Edward R. Nelson, III</u>  Edward R. Nelson, III  enelson@nbclaw.net  Texas State Bar No. 00797142  Brent N. Bumgardner  bbumgarnder@nbclaw.net  Texas State Bar No. 00795272  Barry J. Bumgardner  barry@nbclaw.net  Texas State Bar No. 00793424  S. Brannon Latimer  blatimer@nbclaw.net  Texas State Bar No. 24060137  Thomas C. Cecil  tcecil@nbclaw.net  Texas State Bar No. 24069489  Michael J. Fagan, Jr.  mfagan@nbclaw.net  Louisiana State Bar No. 33821</p> <p>NELSON BUMGARDNER CASTO, P.C.  3131 West 7th Street, Suite 300  Fort Worth, Texas 76107  Phone: (817) 377-9111  Fax: (817) 377-3485</p> <p>T. John Ward, Jr.  Texas State Bar No. 00794818  J. Wesley Hill  Texas State Bar No. 24032294</p>	<p><u>/s/ Michael E. Jones</u>  Michael E. Jones  State Bar No. 10929400  Patrick C. Clutter, IV  State Bar No. 24036374  mikejones@potterminton.com  patrickclutter@potterminton.com  POTTER MINTON, P.C.  110 N. College Ave., Suite 500  Tyler, Texas 75702  Tel: (903) 597-8311  Fax: (903) 593-0846</p> <p>Charles B. Molster, III  Virginia State Bar No. 23613  Thomas M. Dunham  D.C. Bar No. 448407  cmolster@winston.com  tdunham@winston.com  WINSTON &amp; STRAWN LLP  1700 K Street, N.W.  Washington, D.C. 20006-3817  Tel: (202) 282-5000  Fax: (202) 282-5100</p> <p><i>Attorneys for Verizon Communications Inc.  and Celco Partnership d/b/a/ Verizon  Wireless</i></p>
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<p>Claire Abernathy Henry Texas State Bar No. 24053063 WARD &amp; SMITH LAW FIRM P.O. Box 1231 1127 Judson Rd. Ste. 220 Longview, Texas 75606-1231 (903) 757-6400 (903) 757-2323 (fax) jw@jwfir.com wh@wsfir.com ch@wsfir.com</p> <p>ATTORNEYS FOR PLAINTIFF CELLULAR COMMUNICATIONS EQUIPMENT LLC</p>	
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**CERTIFICATE OF CONFERENCE**

Pursuant to Local Rule CV-7(h), I certify that the parties have met and conferred and that this stipulated dismissal without prejudice is unopposed.

/s/ Edward R. Nelson, III  
Edward R. Nelson, III

**CERTIFICATE OF SERVICE**

I hereby certify that on the 14th day of October, 2013, I electronically filed the foregoing document with the clerk of the Court for the U.S. District Court, Eastern District of Texas, Tyler Division, using the Court's electronic case filing system. The electronic case filing system sent a "Notice of Electronic Filing" to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

/s/ Edward R. Nelson, III  
Edward R. Nelson, III